

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Torben F. Orntoft et al.

Application No.: 10/584,653

Confirmation No.: 8207

Filed: June 27, 2006

Art Unit: 1642

For: CLASSIFICATION OF CANCER

Examiner: Aeder, Sean E.

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

In the Office Communication mailed February 25, 2011, the Examiner has indicated that the response to Restriction Requirement filed February 22, 2011 is non-responsive because it did not elect "one or a distinct combination of polynucleotide or polypeptide expression products" by SEQ ID NO. Applicants had interpreted the Restriction Requirement as requiring a species election between polynucleotides or polypeptides of the enumerated sequences of Group I, rather than between polynucleotides or polypeptides of **specific SEQ ID NOs within the enumerated sequences of Group I**. Applicants thank the Examiner for clarifying the species election in a telephonic interview with Applicants' representative, Elizabeth Spar, on March 25, 2011. Applicants apologize for any inconvenience this inadvertent misinterpretation of the requirement for species election may have caused the Examiner.

The Examiner alleges that the pending claims encompass a plurality of patentably distinct inventions pursuant to 35 U.S.C. §§ 121 and 372, and requires election between the following groups:

Group I, claim(s) 68-107, 121-124, and 128, drawn to methods of classifying cancer comprising determining the microsatellite status of a tumor and determining a prognostic marker from a plurality of gene expression products.

Group II, claim(s) 108-111, drawn to a method for reducing malignancy comprising contacting a tumor cell with one or more peptides.

Group III, claim(s) 112-115, drawn to a method for reducing malignancy comprising introducing one or more genes into a tumor cell.

Group IV, claim(s) 116-119, drawn to a method for reducing malignancy comprising introducing one or more probes into tumor cells to allow said one or more probes to hybridize to one or more genes.

Group V, claim(s) 120, drawn to methods of producing antibodies comprising immunizing a mammal with one or a distinct combination of expression products and obtaining antibodies.

Group VI, claim(s) 125 and 129, drawn to a pharmaceutical composition comprising one or more polypeptide.

Group VII, claim(s) 126 and 130, drawn to a pharmaceutical composition comprising one or more genes.

Group VIII, claim(s) 127 and 131, drawn to a pharmaceutical composition comprising one or more probes.

Group IX, claim(s) 132-135, drawn to a kit comprising one or more markers and instructions for use.

In response, Applicants hereby provisionally elect **Group I**, claims 68-107, 121-124, and 128, for continued examination, **without traverse**.

In the event that Group I is elected, the Examiner has further required a species election of either one or a distinct combination of polynucleotide or polypeptide expression products. In response, Applicants provisionally elect the distinct combination of **polynucleotides of SEQ ID NOs 1-104 and 115-135, as enumerated in claim 76, as the species for determining microsatellite status**. Additionally, Applicants provisionally elect the distinct combination of **polynucleotides of SEQ ID**

NOs 105-114, as enumerated in claim 82, as the species for prognostic markers.

This election is believed to be responsive to the Office Communication.

Claims 68-107, 121-124, and 128 read on the elected species.

No fee is believed to be due for filing this response. Nevertheless, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application) to our Deposit Account No. 01-1105, under Order No.: 69167(302423).

Dated: March 25, 2011

Respectfully submitted,
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